IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3310 OF 2005

IN

SUIT NO.2973 OF 2005

Warren Douglas Miranda. ...Plaintiff.

vs.

1.Smt.Scarlet Savio D'Souza
and others. ...Defendants.

Ms.Eventa Gonsalves, for Plaintiff.

Mr.S.U.Kamdar i/b. K.K.Tated, for Defendant no.1&10.

Mr.Jose George, for Defendant no.8

Mr.D.G.Dhanure i/b. M.V.Kini & Co, for Defendant no.7.

CORAM: D.K.DESHMUKH,J.

DATED: 13th June,2007.

P.C.:-

By consent of plaintiff and defendant no.1 the notice of motion is disposed of in the following

terms:-

1. The defendant no.1 shall within a period of two weeks from today file an undertaking in this Court undertaking therein that it is she who is in possession of flat no.4, first floor, Shahin Apartments, Bandra (W), Mumbai and that without seeking the leave of the Court she will not part with possession, alienate, transfer or create third party rights in that flat.

2. The plaintiff shall within a period of two weeks from today file an undertaking that it is the plaintiff who is in possession of the structure standing on CST no.6238 House no.125 and that without seeking leave of the Court she will not part with possession, transfer, alienate or create any third party rights in that property.

3. The Bank of India defendant no.8 is directed that the entire money that is lying in the account i.e. saving bank account no.609 shall not be permitted to be withdrawn by anybody. The Bank of

India -defendant no.8 shall convert that account into fixed deposit and shall invest the amount for an appropriate period so as to bring maximum benefit and money from that account shall not be permitted to be withdrawn by anybody without the order from the Court during the pendency of the suit.

4. The defendant no.8 Bank of India is directed that the amount that is lying in the DBD account no.13337 shall not be permitted to be withdrawn by anybody without obtaining orders from the Court during the pendency of the suit and that the Bank shall continue to renew the account during the pendency of the suit. The renewal should be for such period as may bring maximum benefit to the parties.

5. The defendant no.8 Bank of India shall not permit the amount lying in SCSS account no.382 in the name of deceased Morgan Lawrence Miranda to be withdrawn by anybody. The bank shall renew the deposit during the pendency of the suit. If the bank faces any problem in this regard, the bank shall approach the court for appropriate orders.

6. The defendant no.8 in its affidavit has disclosed that there is a safe deposit locker bearing no.940D standing in the name of Morgan Miranda and one another person. By consent of parties, the Receiver of this Court is directed to nominate a person in whose presence the bank shall open the locker. The bank shall open the locker in the presence of the person nominated by the receiver as directed above, but the bank shall after fixing the date and time for opening of locker shall give notice of the date and time to the plaintiff and defendant nos. 1 to 7 and 10. For the purpose of service of notice on the defendants, the bank shall hand over the notices to the Advocate appearing for plaintiff who shall serve that on the defendants. After opening the locker in presence of the representative, in presence of such parties who may choose to remain present, inventory of the articles found in the locker shall be prepared by the representative who shall give a copy of the inventory to the bank and to the parties if they apply and shall file the inventory in the Court. After the

preparation of the inventory, the locker shall be sealed. The bank shall not permit anybody to operate the locker without obtaining the orders from the Court. The plaintiff shall continue to pay the charges that may be necessary to be paid for continuing the locker during the pendency of the suit. The notice of motion is disposed of

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